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असाधारण
EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 26th February, 1974/Phalguna 7, 1895 (Saka)

The following President's Act is published for general information:—

THE ORISSA ESTATES ABOLITION (AMENDMENT)
ACT, 1974

No. 3 of 1974

Enacted by the President in the Twenty-fifth Year of the
Republic of India.

An Act further to amend the Orissa Estates Abolition Act, 1951.

20 of 1973.

In exercise of the powers conferred by section 3 of the Orissa State
Legislature (Delegation of Powers) Act, 1973, the President is pleased
to enact as follows:—

1. (1) This Act may be called the Orissa Estates Abolition (Amend-
ment, Act, 1974.

(2) It shall come into force at once.

Orissa Act
1 of 1951.

2. In section 2 of the Orissa Estates Abolition Act, 1951 (hereinafter
referred to as the principal Act), after clause (o), the following clause
shall be inserted, namely:—

“(oo) ‘trust estate’ means an estate the whole of the net income
whereof under any trust or other legal obligation has been dedicated
exclusively to charitable or religious purposes of a public nature
without any reservation of pecuniary benefit to any individual:

Provided that all estates belonging to the Temple of Lord
Jagannath at Puri within the meaning of the Shri Jagannath Temple

Short
title and
com-
mence-
ment.

Amend-
ment of
section 2.

Act, 1955 and all estates declared to be trust estates by a competent authority under this Act prior to the date of coming into force of the Orissa Estates Abolition (Amendment) Act, 1970, shall be deemed to be trust estates.

Orissa Act
11 of 1955.

Orissa Act
33 of 1970.

Explanation.—The salary, remuneration or any allowance payable to a mutawalli in the case of a wakf or to a trustee in any other case, including a sebit of a Hindu religious trust, not exceeding fifteen per centum of the income dedicated exclusively to charitable or religious purposes shall not be deemed to be a reservation of a pecuniary benefit to any individual within the meaning of this clause.”.

**Amend-
ment of
section 7.**

3. In section 7 of the principal Act,—

(i) after clause (c), the following clause shall be inserted, namely:—

“(d) in the case of a trust estate, so much of the waste land and such of the tanks in the possession of the Intermediary, which in both cases were being exclusively used for religious purposes immediately before the date of such vesting, as may be specified—

(i) in respect of trusts governed by the Orissa Hindu Religious Endowments Act, 1951 and the Shri Jagannath Temple Act, 1955, by the Commissioner of Endowments appointed under the Orissa Hindu Religious Endowments Act, 1951;

Orissa Act
II of 1952.

Orissa Act
11 of 1955.

(ii) in respect of trusts governed by the Wakfs Act, 1954, by the Board of Wakfs constituted thereunder; and

29 of 1954.

(iii) in respect of other religious trusts, by such person or authority as may be specified by the Collector of the district for the purpose;”;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that where any land or tank referred to in clause (d) is deemed to be settled under this section, such settlement shall also be subject to such terms and conditions as may be prescribed.”

**Insertion
of new
section
7A.**

4. After section 7 of the principal Act, the following section shall be inserted, namely:—

**Settle-
ment of
land or
building.**

“7A. If the State Government are of the opinion that any land or building (being part of a trust estate) vested in the State Government is needed for carrying out the purposes of the trust efficiently, then, notwithstanding anything contained in any other law for the time being in force or in any other provision of this Act, the State Government may settle such land or building with the person who immediately before such vesting was an Intermediary in respect of such land or building, subject to the payment of such fair and equitable rent as may be determined by the Collector in the pres-

cribed manner and subject to such other terms and conditions as may be prescribed:

Provided that no such land or building shall be settled under this section—

(i) after the expiry of a period of three years from the date of vesting; or

(ii) if such land or building is held by a tenant.”.

5. In section 8 of the principal Act, *Explanations* I and II shall be omitted.

Amendment of section 8.

6. In section 8-A of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

Amendment of section 8-A.

“(5) Without prejudice to the provisions contained in sub-section (4), where a claim in respect of any estate is made by the Intermediary on the ground that it is a trust estate, the Collector shall, whether or not any objection is filed under the said sub-section, make a reference to the Tribunal constituted under section 8-D for determining whether the estate is a trust estate or not and shall act according to the orders passed by the said Tribunal:

Provided that in the case of any estate referred to in the proviso to clause (oo) of section 2, no such reference shall be necessary.”

7. In section 8-C of the principal Act, for the words, figures and letters “sections 6, 7, 8-A and 8-B”, the words, figures and letters “sections 6, 7, 7-A, 8-A and 8-B” shall be substituted.

Amendment of section 8-C.

8. After section 8-C of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 8-D and 8-E.

“8-D. (1) For the purpose of determining whether an estate is a trust estate or not, the State Government may, by notification, constitute one or more Tribunals having such local jurisdiction as may be specified in such notification.

Constitution of Tribunals.

(2) The Tribunal shall consist of one member to be appointed by the State Government from among the officers of the Judicial Service not below the rank of a Subordinate Judge.

8-E. (1) The Tribunal shall, in accordance with the rules made in that behalf, publish in such manner as may be prescribed, the particulars of all references as are received by it under sub-section (5) of section 8-A inviting objections thereto from persons interested, to be filed within the period to be specified in that behalf.

Disposal of references.

(2) After receipt of the objections, if any, the Tribunal shall, after giving the persons concerned an opportunity of being heard and making such enquiry as it deems necessary, determine whether the estate is a trust estate or not and send a copy of the order to the Collector who has made the reference.”

**Amend-
ment of
section 28.**

9. In section 28 of the principal Act, after clause (2-a), the following clause shall be inserted, namely:—

“(2-b) (i) where any property is settled under section 7-A with any person referred to in that section, the perpetual annuity payable to such person shall be revised.

(ii) For the purpose of such revision, the gross income in respect of such property taken into account in assessing the perpetual annuity shall be deducted from the gross assets of such estate and the provisions of sections 31 to 35 shall *mutatis mutandis* apply.”

**Amend-
ment of
section 38.**

10. In section 38 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Where the first payment of perpetual annuity payable under the provisions of clause (2) of section 28 is not made within a period of one year from the date of vesting, the Collector shall, subject to such restrictions and conditions as to security, repayment or otherwise, as may be prescribed, make payment to the trustee Intermediary of an interim annuity equivalent to seventy-five per centum of the approximate amount of the perpetual annuity aforesaid to be calculated in the prescribed manner.”

**Amend-
ment of
section 42.**

11. In section 42 of the principal Act, in sub-section (1),—

(i) for the words, figures and letter “sections 5, 6, 7 and 8-A”, the words, figures and letters “sections 5, 6, 7, 7-A and 8-A” shall be substituted.;

(ii) for the words and figures “sections 13, 30 and 36”, the words, figures and letter “sections 8E, 13, 30 and 36”, shall be substituted.

V. V. GIRI,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

Reasons for the Enactment

The Orissa Estates Abolition Act, 1951 provides for the abolition of temporarily and permanently settled zamindaris and other Intermediary interests and tenures in the State of Orissa. All estates except trust estates have vested in the Government by virtue of notifications issued in that behalf by the Government under the Act. For carrying out the purposes of trusts efficiently and to ensure proper performance of traditional rites and rituals in the religious institutions when trust estates are vested in the Government, it is considered necessary that trust estates may retain so much of the waste land and such of the tanks in the possession of the Intermediary which were being exclusively used for religious purposes on the date of vesting and that any land or building (being part of a trust estate) vested in the Government may be settled in certain circumstances with the person who immediately before such vesting was an Intermediary in respect of such land or building.

2. The present measure is being enacted mainly to achieve the above objectives.

3. The Committee constituted under the proviso to sub-section (2) of section 3 of the Orissa State Legislature (Delegation of Powers) Act, 1973 (20 of 1973) has been consulted before enactment of this measure as a President's Act.

T. P. SINGH,

*Secretary to the Government of India,
Ministry of Agriculture
(Department of Agriculture).*

